

**CHAPTER NO. 978**

**HOUSE BILL NO. 2835**

**By Representative Walley**

**Substituted for: Senate Bill No. 2312**

**By Senator Cooper**

AN ACT to amend Tennessee Code Annotated, Title 68, Chapter 11, Part 2 and Part 8, relative to the imposition of citations and/or civil monetary penalties under certain circumstances.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-11-801, is amended by adding the following new subsection:

(d) If a violation, citation, deficiency, or civil monetary penalty is found during the nursing home survey process, wherein the violation is based upon an action or actions that are directly pursuant to a physician's order, the board of medical examiners' consultant, or his physician designee, shall be contacted for a consultation on the determination as to the medical necessity of the physician's order in question. The determination of medical necessity shall be based upon the recognized medical standards of practice and shall include, but not be limited to, a review of the physician's order, the date the order was given, the status of the patient at the time the actions occurred and the outcomes of the actions, the applicable state and federal regulations, and shall include contact between the consultant or designee and the treating physician or the facility's medical director. Any consultation between the consultant or designee and the treating physician or medical director must be completed within the time frames of the survey process. If it is determined that the violation is based upon or relates to a physician's order determined to be medically necessary, no violation, citation, deficiency, or civil monetary penalty will be assessed against the facility and any deficiency cited in violation of this subsection will be removed. The department shall report back to the board of medical examiners and the appropriate standing committees at the end of six (6) months regarding the effectiveness and the resources necessary to meet the requirements of this subsection. The provisions of this subsection shall cease to be effective on July 1, 2001.

SECTION 2. Tennessee Code Annotated, Section 68-11-820, is amended by adding the following new subsection:

(d) If a violation, citation, deficiency, or civil monetary penalty is found during the nursing home survey process, wherein the violation is based upon an action or actions that are directly pursuant to a physician's order, the board of medical examiners' consultant, or his physician designee, shall be contacted for a consultation on the determination as to the medical necessity of the physician's order in question. The determination of medical necessity shall be based upon the recognized medical standards of practice and shall include, but not be limited to, a review of the physician's order, the date the order was given, the status of the patient at the time the actions

occurred and the outcomes of the actions, the applicable state and federal regulations, and shall include contact between the consultant or designee and the treating physician or the facility's medical director. Any consultation between the consultant or designee and the treating physician or medical director must be completed within the time frames of the survey process. If it is determined that the violation is based upon or relates to a physician's order determined to be medically necessary, no violation, citation, deficiency, or civil monetary penalty will be assessed against the facility and any deficiency cited in violation of this subsection will be removed. The department shall report back to the board of medical examiners and the appropriate standing committees at the end of six (6) months regarding the effectiveness and the resources necessary to meet the requirements of this subsection. The provisions of this subsection shall cease to be effective on July 1, 2001.

SECTION 3. Tennessee Code Annotated, Section 68-11-210, is amended by adding the following new subsection:

(c) If a violation, citation, deficiency, or civil monetary penalty is found during the nursing home survey process, wherein the violation is based upon an action or actions that are directly pursuant to a physician's order, the board of medical examiners' consultant, or his physician designee, shall be contacted for a consultation on the determination as to the medical necessity of the physician's order in question. The determination of medical necessity shall be based upon the recognized medical standards of practice and shall include, but not be limited to, a review of the physician's order, the date the order was given, the status of the patient at the time the actions occurred and the outcomes of the actions, the applicable state and federal regulations, and shall include contact between the consultant or designee and the treating physician or the facility's medical director. Any consultation between the consultant or designee and the treating physician or medical director must be completed within the time frames of the survey process. If it is determined that the violation is based upon or relates to a physician's order determined to be medically necessary, no violation, citation, deficiency, or civil monetary penalty will be assessed against the facility and any deficiency cited in violation of this subsection will be removed. The department shall report back to the board of medical examiners and the appropriate standing committees at the end of six (6) months regarding the effectiveness and the resources necessary to meet the requirements of this subsection. The provisions of this subsection shall cease to be effective on July 1, 2001.

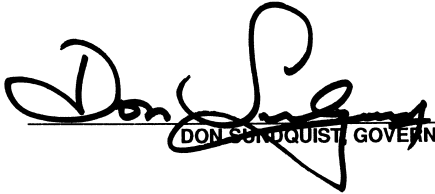
SECTION 4. This act shall take effect upon becoming law, the public welfare requiring it.

PASSED: June 9, 2000

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

APPROVED this 23<sup>rd</sup> day of June 2000

  
DON SUNDQUIST, GOVERNOR